

AMENDED IN SENATE MAY 1, 1997

SENATE BILL

No. 629

Introduced by Senator Karnette

February 25, 1997

An act to amend Sections 24001, 24007, and 24101 of, *and to add Sections 24001.5 and 24101.5 to*, the Education Code, and to amend Section 21540.5 of the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 629, as amended, Karnette. Public employees retirement.

(1) The State Teachers' Retirement Law prescribes alternative disability benefits for members with less than 4 years of service if they have on-the-job injuries.

This bill would make those alternative disability benefits applicable to members with less than 5 years of credited service whose disabilities are due to unlawful acts of bodily harm.

(2) The Public Employees' Retirement Law prescribes increased special death benefits for state or local miscellaneous members whose deaths were a direct consequence of violent acts that arose out of and in the course of their official duties. The benefits are available for local miscellaneous members whose employers elect to provide those benefits.

This bill would provide those benefits to school members for acts occurring on and after January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24001 of the Education Code is
2 amended to read:

3 24001. (a) A member may apply for a disability
4 allowance if the member has five or more years of
5 credited service and if all of the following requirements
6 are met:

7 (1) At least four years were credited for actual service
8 performed subject to coverage by the plan. Credit
9 received because of workers' compensation payments
10 shall be counted toward the four-year requirement *in*
11 *accordance with Section 22710.*

12 (2) The last five years of credited service have been
13 served in this state.

14 (3) At least one year was credited for service
15 performed subsequent to the date on which the member
16 terminated the service retirement allowance under
17 Section 24208.

18 (4) At least one year was credited for service
19 performed subsequent to the most recent refund of
20 accumulated retirement contributions.

21 (5) The member has not attained normal retirement
22 age, or has unused sick leave with sufficient days to have
23 the member receive salary on account of sick leave to
24 normal retirement age.

25 (6) The member is not applying for a disability
26 allowance because of a physical or mental condition
27 known to exist at the time the most recent membership
28 in the plan commenced and that remains substantially
29 unchanged at the time of application.

30 (b) Nothing in this section shall affect the right of a
31 member to a disability allowance if the reason that the
32 member has performed less than four years of actual
33 service is due to an on-the-job injury or a disease while in
34 employment subject to coverage by the plan *and the*
35 *four-year requirement can be satisfied by credit obtained*

1 under Chapter 14 (commencing with Section 22800) in
2 addition to any credit received from workers'
3 compensation payments.

4 (c) Nothing in this section shall affect the right of a
5 member ~~with~~ who has less than five years of credited
6 service to a disability allowance ~~if providing the member~~
7 ~~has at least one year of credited California service and if~~
8 ~~the reason for the disability is due to an unlawful act of~~
9 ~~bodily harm committed by another human being on the~~
10 ~~person of the member that occurred~~ while the member
11 was performing ~~that member's~~ his or her official duties in
12 a position subject to coverage by the plan.

13 ~~(d)~~

14 SEC. 1.5. Section 24001.5 is added to the Education
15 Code, to read:

16 24001.5. A member shall not be eligible for disability
17 under this plan while on a leave of absence to serve as a
18 full-time elected officer of an employee organization,
19 even if receiving service credit under Section 22711.

20 SEC. 2. Section 24007 of the Education Code is
21 amended to read:

22 24007. A member who qualifies for a disability
23 allowance under this chapter and who has attained age 45
24 years, but who has not yet attained age 60 years, shall have
25 his or her allowance calculated upon service with each
26 year of credited California service providing 5 percent of
27 final compensation. The disabled member shall receive
28 the lesser of this amount or the amount provided by
29 Section 24006. A child's portion of the allowance shall be
30 determined pursuant to Section 24006. This section shall
31 not apply to a member who is eligible to apply for a
32 disability allowance under subdivision (c) of Section
33 24001.

34 SEC. 3. Section 24101 of the Education Code is
35 amended to read:

36 24101. (a) A member may apply for a disability
37 retirement if the member has five or more years of
38 credited service and if all of the following requirements
39 are met:

1 (1) At least four years were credited for actual service
2 performed subject to coverage by the plan. Credit
3 received because of workers' compensation payments
4 shall be counted toward the four-year requirement *in*
5 *accordance with Section 22710.*

6 (2) The last five years of credited service have been
7 served in this state.

8 (3) At least one year (1.000) of credited service was
9 earned subsequent to the date on which the member
10 terminated the service retirement allowance under
11 Section 24208.

12 (4) At least one year (1.000) of credited service was
13 earned subsequent to the date on which the member's
14 disability allowance was terminated.

15 (5) At least one year (1.000) of credited service was
16 earned subsequent to the most recent refund of
17 accumulated retirement contributions.

18 (6) The member is not applying for a disability
19 retirement because of a physical or mental condition
20 known to exist at the time the most recent membership
21 in the plan commenced and that remains substantially
22 unchanged at the time of application.

23 (b) Nothing in this section shall affect the right of a
24 member to a disability retirement if the reason that the
25 member has performed less than four years of actual
26 service is due to an on-the-job injury or a disease while in
27 employment subject to coverage by the plan *and the*
28 *four-year requirement can be satisfied by credit obtained*
29 *under Chapter 14 (commencing with Section 22800) in*
30 *addition to any credit received from workers'*
31 *compensation payments.*

32 (c) Nothing in this section shall affect the right of a
33 member ~~with~~ *who has* less than five years of credited
34 service to a disability retirement allowance *if providing*
35 *the member has at least one year of credited California*
36 *service and if the reason for the disability is due to an*
37 *unlawful act of bodily harm committed by another*
38 *human being on the person of the member that occurred*
39 *while the member was performing that member's his or*

1 her official duties in a position subject to coverage by the
2 plan.

3 ~~(d)~~

4 SEC. 3.5. Section 24101.5 is added to the Education
5 Code, to read:

6 24101.5. A member shall not be eligible for disability
7 retirement from this plan while on a leave of absence to
8 serve as a full-time elected officer of an employee
9 organization, even if receiving service credit under
10 Section 22711.

11 SEC. 4. Section 21540.5 of the Government Code is
12 amended to read:

13 21540.5. The special death benefit is also payable if the
14 deceased was a state, school, or local miscellaneous
15 member if the death of the member was a direct
16 consequence of a violent act perpetrated on his or her
17 person that arose out of and was in the course of his or her
18 official duties and there is a survivor who qualifies under
19 subdivision (b) of Section 21541. The Workers'
20 Compensation Appeals Board, using the same procedure
21 as in workers' compensation hearings, shall, in disputed
22 cases determine whether the member's death was a
23 direct consequence of a violent act perpetrated on his or
24 her person that arose out of and in the course of his or her
25 official duties.

26 A natural parent of surviving children eligible to
27 receive an allowance payable under this section shall not
28 be required to become the guardian of surviving
29 unmarried children under 18 years of age in order to be
30 paid the benefits prescribed for those children.

31 The jurisdiction of the Workers' Compensation
32 Appeals shall be limited solely to the issue of industrial
33 causation, and this section shall not be construed to
34 authorize the Workers' Compensation Appeals Board to
35 award costs against this system pursuant to Section 4600
36 or 5811 or any other provision of the Labor Code.

37 This section shall not apply to a contracting agency nor
38 its employees unless and until the agency elects to be
39 subject to it by amendment to its contract made in the
40 manner prescribed for approval of contracts, or in the

1 case of a new contract, by express provision of the
2 contract.

3 SEC. 5. The amendments to Section 21540.5 of the
4 Government Code during the 1997–98 Regular Session
5 shall not be construed to affect the liability of the Public
6 Employees’ Retirement System for any acts respecting
7 state or local miscellaneous members that occurred prior
8 to July 1, 1993, nor any acts respecting school members
9 that occurred prior to January 1, 1998.

